



State of Maryland  
Office of the Attorney General

January 18, 2021

TO: The Honorable William C. Smith, Jr., Chair, Judicial Proceedings  
Committee

FROM: Carrie J. Williams, Assistant Attorney General

RE: Attorney General's Support for SB 250

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The Attorney General urges the Judicial Proceedings Committee to report favorably on Senate Bill 250. Senate Bill 250 repeals Criminal Law Article, Section 3-318, which provides that, with exceptions, a person cannot be charged for sexually assaulting his or her legal spouse.

Under current law, a person can engage in non-consensual “sexual contact” with his or her spouse without fear of prosecution. Likewise, a person can have vaginal intercourse or engage in a “sexual act” with his or her spouse, even if the spouse is substantively cognitively impaired, mentally incapacitated, or physically helpless, and the State cannot prosecute that act as a sexual offense.

“Spousal defense” laws are archaic. They stem from the 18<sup>th</sup> century belief that “marriage constituted permanent consent that could not be retracted.”<sup>1</sup> That belief has since been rightly rejected. People do not sacrifice their bodily autonomy when they marry. A relationship with the victim should not be a defense to sexual assault. The Attorney General urges the Judicial Proceedings Committee to report favorably on Senate Bill 250.

cc: Members of the Committee

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<sup>1</sup> Rothman, Lily, “When Spousal Rape First Became a Crime in the U.S.”, *Time Magazine*, July 28, 2015, available at [time.com/3975175/spousal-rape-case-history/](http://time.com/3975175/spousal-rape-case-history/) (last visited Jan. 29, 2020).